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**UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA**

NATIONAL ABORTION FEDERATION)	Case No. 3:15-cv-3522 (WHO)
(NAF),)	
)	Judge William H. Orrick, III
Plaintiff,)	
vs.)	DEFENDANTS' OBJECTIONS TO
)	EVIDENCE IN SUPPORT OF NAF'S
)	MOTION FOR ORDER TO SHOW
THE CENTER FOR MEDICAL)	CAUSE RE CONTEMPT
PROGRESS; BIOMAX PROCUREMENT)	
SERVICES, LLC; DAVID DALEIDEN (aka)	Hearing Date: December 18, 2015
"ROBERT SARKIS"); and TROY)	Time: 10:00 a.m.
NEWMAN,)	
)	
Defendants.)	

DECLARATION OF DEREK FORAN

The Declaration of Derek Foran is fatally defective because he failed to sign it under penalty of perjury. 28 U.S.C. § 1746; Ca. Code of Civil Procedure § 2015.5. As such it cannot be considered a declaration under California law or federal law. *Network Computing Services Corp. v. Cisco Systems, Inc.* (4th Cir. 2005) 152 Fed.Appx. 317, 321 (unpublished); *Davenport v. Board of Trustees of State Center Community College Dist.* (E.D. Cal. 2009) 654 F.Supp.2d 1073, 1083; *Link Treasure Ltd. v. Baby Trend, Inc.* (C.D. Cal. 2011) 809 F.Supp.2d 1191, 1195; *Kulshrestha v. First Union Commercial Corp.* (2004) 33 Cal.4th 601, 612. Accordingly, it has no evidentiary value whatsoever. And none of the exhibits attached thereto can be claimed to have been authenticated. *Link Treasure, supra*, 809 F.Supp.2d at 1195.

A lawyer cannot be treated as some kind of super-witness capable of substituting for the witness whose personal knowledge or expert opinion is to be proffered to the court. Nor can a lawyer's declaration under penalty of perjury make the contents of newspaper articles admissible over hearsay and authentication objections. Nonetheless, should Mr. Foran attempt to re-sign the same declaration to which is added the essential "under penalty of perjury" language and file it before the hearing occurs, Defendants would make the following evidentiary objections to such declaration:

<u>TEXT</u>	<u>EVIDENTIARY OBJECTION</u>	<u>RULINGS</u>
3. Based on a review of these videos by attorneys working at my direction, the following presentations, and the recordings that capture them, contain no content that is responsive to the congressional subpoena (which asks	FRE 602: Lack Of Personal Knowledge; FRE 701: Improper Opinion Testimony; FRE 802: Inadmissible Hearsay; FRE 1004, 1007: Best Evidence	Sustained: _____ Overruled: _____

1	for all material related to the		
2	“acquisition, preparation, and sale		
3	of fetal tissue” or the “manipulation		
4	of abortion procedures”).		
5	4. These files were produced by	FRE 602: Lack Of Personal	Sustained: _____
6	Daleiden to Congress and, based on	Knowledge; FRE 701:	Overruled: _____
7	a careful review of these videos by	Improper Opinion Testimony;	
8	attorneys working at my direction,	FRE 802: Inadmissible	
9	do not contain any material	Hearsay; FRE 1004, 1007:	
10	related to the congressional	Best Evidence	
11	subpoena which only asked for		
12	material related to the “acquisition,		
13	preparation, and sale of fetal tissue”		
14	or the “manipulation of abortion		
15	procedures.”		
16	10. The following documents,	FRE 602: Lack Of Personal	Sustained: _____
17	which were made available to NAF	Knowledge; FRE 701:	Overruled: _____
18	meeting attendees via thumb drive	Improper Opinion Testimony;	
19	and which have been produced by	FRE 802: Inadmissible	
20	Daleiden to NAF and to Congress,	Hearsay; FRE 1004, 1007:	
21	have nothing to do with fetal tissue	Best Evidence	
22	procurement and do not contain		
23	material that is responsive to the		
24	congressional subpoenas.		
25	11. Attached as Exhibit 5 hereto is a	FRE 801, 802: Inadmissible	Sustained: _____
26	true and correct copy of a	Hearsay.	Overruled: _____
27	screenshot of a Charles Johnson		
28	Facebook post dated October 18,		
	2015. In this Facebook post,		
	Johnson states:		
	“Gotnews.com has obtained all of		
	the Planned Parenthood videos,		
	thanks to a leak from Congress. The		
	videos has previously been		
	censored by court order. Would you		
	like to see them?” This document		
	was obtained by taking a screenshot		
	of the following web address:		
	https://www.facebook.com/charles.		
	c.johnson/posts/1020514317215908		
	.		

12. Attached as Exhibit 6 hereto is a true and correct copy of a screenshot of a Charles Johnson Facebook post dated October 18, 2015. In this Facebook post, Johnson states: "The U.S. House of Representatives has had the rest of the Planned Parenthood videos and a few staffers have leaked them to me." This document was obtained by taking a screenshot of the following web address: https://www.facebook.com/charles.c.johnson/posts/1020514354168831	FRE 801, 802: Inadmissible Hearsay.	Sustained: _____ Overruled: _____
13. Attached as Exhibit 7 hereto is a true and correct copy of an article posted on gotnews.com entitled The Man Behind The #PlannedParenthood Video And Me by Charles C. Johnson, dated July 16, 2015. This document was obtained by downloading it from gotnews.com's website, at: http://gotnews.com/the-man-behind-the-plannedparenthood-videoand-me/ .	FRE 801, 802: Inadmissible Hearsay.	Sustained: _____ Overruled: _____
14. Attached as Exhibit 8 hereto is a true and correct copy of an article posted on gotnews.com entitled BREAKING VIDEO: Planned Parenthood Rep: We Can't Stop Affiliates From Breaking The Law by Charles C. Johnson, dated October 20, 2015. This document was obtained by downloading it from gotnews.com's website, at http://gotnews.com/breaking-videoplanned-parenthood-rep-we-cant-stop-affiliates-from-breaking-the-law/ .	FRE 801, 802: Inadmissible Hearsay.	Sustained: _____ Overruled: _____

15. Attached as Exhibit 9 hereto is a true and correct copy of an article posted on WashingtonPost.com entitled Controversial Blogger, Infamous Hacker Team Up To Release Remaining Planned Parenthood Videos, dated October 23, 2015. This document was obtained by downloading it from WashingtonPost.com's website, at https://www.washingtonpost.com/news/morning-mix/wp/2015/10/23/controversial-bloggerinfamous-hacker-team-up-to-release-remaining-planned-parenthood-videos/ .	FRE 801, 802: Inadmissible Hearsay	Sustained: _____ Overruled: _____
16. Attached as Exhibit 10 hereto is a true and correct copy of an article posted on WashingtonPost.com entitled Meet The Divisive Blogger Who Says He Outed Rolling Stone's 'Jackie', dated December 9, 2014. This document was obtained by downloading it from WashingtonPost.com's website at https://www.washingtonpost.com/news/morningmix/wp/2014/12/09/the-blogger-who-wants-to-take-down-rolling-stone-jackie-and-theuniversity-of-virginia-president/ Attached to the Appendix as Exhibit 100, starting at Bates number.	FRE 801, 802: Inadmissible Hearsay	Sustained: _____ Overruled: _____
17. Attached as Exhibit 11 hereto is a true and correct copy of an article posted on gotnews.com entitled BREAKING: Here Are All The Unreleased Planned Parenthood Tapes by Charles Johnson, dated October 22, 2015. This document was obtained by downloading it from gotnews.com's website, at http://gotnews.com/breaking-here-are-all-the-unreleased-plannedparenthood-tapes/ .	FRE 801, 802: Inadmissible Hearsay.	Sustained: _____ Overruled: _____

Respectfully submitted,

/s/ Catherine Short

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